

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MARSHALL T. JORDAN,)
)
Petitioner,)
)
vs.) Case No. 4:99CV820 JCH
)
)
MIKE KEMNA,)
)
Respondent.)

ORDER

This matter is before the Court on Petitioner Marshall T. Jordan's Motion to Set Aside Judgment Sentence to Render Sentence in Accordance with Law, which the Court construes as a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petition is successive and shall be summarily dismissed.

Rule 4 of the Rules Governing § 2254 Cases in the United States District Courts provides that a district court shall summarily dismiss a § 2254 petition if it plainly appears that the Petitioner is not entitled to relief.

Petitioner was sentenced by the state court in 1996. Petitioner sought state and federal habeas relief after the conviction. The denial of Petitioner's federal habeas petition was affirmed by the United States Court of Appeals for the Eighth Circuit on May 1, 2002. (Doc. No. 30).

To the extent that Petitioner seeks to relitigate claims he brought in his original petition, those claims must be denied pursuant to 28 U.S.C. § 2244(b)(1). To the extent he seeks to bring new claims for habeas relief, Petitioner must obtain leave from the United States Court of Appeals for the Eighth Circuit before he can bring those claims in this Court. 28 U.S.C. § 2244(b)(3)(A). Petitioner

has not been granted leave to file a successive habeas petition in this Court, and so the instant petition must be dismissed.

Accordingly,

IT IS HEREBY ORDERED that Petitioner's Motion to Set Aside Judgment (Doc. No. 35) is **DENIED**.

IT IS FURTHER ORDERED that Petitioner's Motion for Appointment of Counsel (Doc. No. 36) is **DENIED**.

Dated this 28th day of May, 2008.

/s/ Jean C. Hamilton
UNITED STATES DISTRICT JUDGE